Research and Economic Services

Research Advisory

Flexible Spending Accounts – Changes for 2021

Since 2011, districts have been required to provide Flexible Spending Accounts (FSAs) for members to pay for medical expenses with pretax dollars. Districts may also provide dependent-care FSAs as well. FSAs are "use it or lose it" accounts—the money deposited has to be spent by the end of the year—with two exceptions. Employers have been permitted to apply one of these options:

- Up to $550 of the fund can be carried over into next year to pay for the previous year's claims, or
- A 2½ month grace period into the new year, in which to pay for the previous year's claims.

As a result of the COVID-19 pandemic, it has been difficult in 2020 for employees to use all or any of the funds they've deposited in those accounts. To address these issues, Congress's latest COVID-19 relief package now includes a number of temporary special rules for health and dependent care FSAs.

Here are the changes that FSA holders *may* be able to take advantage of:

- Extended carry-over and grace periods for 2021 and 2022. Any balance up to $5,000 (for families) at the end of 2020 can be carried forward into 2021, and any balance at the end of 2021 can be carried forward into 2022. Likewise, grace periods are extended from the original 2½ months to the end of the full calendar year (i.e., you have all of 2021 to use your 2020 funds).
- FSA account elections are no longer irrevocable during the 2021 plan year. The elections can be changed prospectively by employees, for any reason, during 2021.
- Terminated participants can now access their accounts through the end of the plan year in which their participation terminates, plus any grace period. (However, it's unclear if this applies just to unused contributions as of the termination date or the entire elected amount—this will require clarity from the IRS).
- The maximum dependent care age is increased from age 13 to age 14 for the 2020 calendar year, for a plan year for which the regular enrollment period ended on or before January 31, 2020. That means an employee may be reimbursed for dependent care expenses for their 14-year-old during 2020 (the same rule applies to 2021, but only for an unused balance carried into 2021 from 2020).

These changes are ***optional*** for employers, who might use some or all of these changes, or none at all. The allowed changes can also be applied retroactively. Plan amendments must be made by the end of the first calendar year beginning after the end of the plan year in which the amendment is effective, provided the plan must be operated consistent with the terms of the amendment beginning on its effective date (e.g., for calendar year 2020 plan year, plan amendments must be adopted by December 31, 2021; for July 1, 2020 to June 30, 2021 plan year, plan amendments must be adopted by December 31, 2022).

Local associations should be aware of whether their boards of education are implementing any of these changes. As always, should you have additional questions contact the pensions and health benefits person assigned to your zone.